[redacted]

Supreme Court of the United States.

THE UNITED STATES, PETITIONER, vs. E. A. MORRISON & SON, *and* SAME PETITIONER, vs. H. WOLFF & CO.	No. 73 No. 74

ON CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

BRIEF FOR RESPONDENTS.

It is regrettable that this court should be required to consider cases involving no disputed principle of law, nor any question of fact of public interest. The issue which the Attorney General by his prayer has brought here, concerns not constitutional questions, treaties, nor disputes between States, but the precise form of words used by mercantile witnesses, the appearance of samples of merchandise, and such trite principles of law, only, as that the terms of tariff acts are to be applied according to their established commercial meanings.

That our opponent should have consented to ask for review of such cases, invites explanation, and this seems to be at hand in a wide misconception by him

of the facts and proofs contained in the record. Were these as he has been led to suppose, there might be some question whether the law had been soundly applied in the appellate court below; on the record *as it is*, there can be no such doubt.

But little argument will be needed when the proven facts are precisely set forth, but it is essential that this be thoroughly done.

The Facts, and Mistakes as to these in the Opposing Brief.

1

The articles in issue are pieces of glass in bead form, variously colored and treated, imitating catseyes, topaz, garnets, aquamarines, moonstones and pearls, and represented by Exhibits 2, 3 and 4.

Mr. Hoyt is completely in error in supposing (brief, p. 7) that Exhibit 3 is out of the case, having been decided in the importers' favor by the general appraisers. On page 3, record, such a decision was made, but on certain items contained in one parcel only, and expressly on the ground that, being loose, these were dutiable under paragraph 445,—one of the grounds set up in the protests. On page 4, record, Exhibit 3 was put in evidence in the circuit court, on the importers' appeal from the adverse part of the general appraisers' decision, and proven to represent items on two invoices, which were in fact strung and thus excluded from paragraph 445, and were in fact assessed with duty at 60 per cent., under paragraph 108. Had the importers already won on these items, naturally they would not have offered testimony concerning them on their own appeal.

Yet under his misapprehension our opponent (p. 7) concedes that these cheap, pierced, bead imitations of topaz, moonstone etc., were dutiable as imitations of

precious stones, not set, and in view of this concession is forced to argue (p. 16) that while drilling topaz and moonstones does not remove them from recognition as precious stones, the result would be otherwise as to pearls and catseyes.

2

As to the articles represented by Exhibits 2, 3 and 4, no claim intentionally made has been abandoned or "not insisted on," as supposed by our opponent (p. 8). The claim in the protests for assessment as loose beads, under paragraph 445, was perfectly valid as to the specific items on which the general appraisers sustained such claim, and was thereby satisfied. Of the main claim, applicable to the items now in controversy, the board took no notice whatever.

3

The imitation pearls (Exhibit 4) are not made of glass and wax, but of glass with an inside coating of some substance produced from fish scales, to give a nacreous lustre to the glass. Our opponent (p. 8) quotes the assertion of the circuit judge, who found that they were of glass and wax, but was without a scintilla of evidence in so finding. The appeal to the circuit court of appeals rested in part on this and other inadvertences of the circuit judge, and they were by said court corrected (See page 35, record). Our opponent has been misled, perhaps, by the undoubted fact that the articles are known as wax pearls, but this seems to be from their having at first, years ago, been lined with wax (p. 24, record). Those in suit are lined with "a fish scale, melted" (p. 26). They were assessed with duty as unenumerated manufactures of glass, under paragraph 108 (Wolff record, p. 2) and *if they were enough composed of glass for that they were also enough so to be within a provision for imitation*

stones "composed of glass or paste," as in paragraph 454.

4

All of the Exhibits, 2, 3 and 4, were such as can be set and are constantly set.

Concerning this, our opponent (p. 9) falls into another of the errors of the circuit judge, whose language he quotes, and assumes that it followed the proofs. But the contrary is the fact, as shown by the unchallenged evidence of a lapidary and dealer in real and imitation precious stones, who testified (record, p. 20):

"Q. Are those [Exhibits 2 and 3] of a character or quality sufficiently good to warrant their being mounted as jewelry?

A. I have seen them mounted."

And of a dealer in and user of these articles, who testified (record, pp. 24–25):

"Q. Do you set them; is that part of your business?

A. Yes, sir."

And again (p. 27):

"Q. You testified that one of the articles in Exhibit A which counsel for the Government selected and showed you, illustrated the way those things were set; tell me how they were set when they have two little holes through them, like Exhibits 2, 3 and 4?

A. Same way; or with clamps which cover the holes."

"Q. Do you testify here that you have ever seen any articles likes these in Exhibit 3 set?

A. Yes, sir; set them every day."

No other evidence in the record bears nearly or remotely on this question of fact.

And in General.

The foregoing are particular facts on which our opponent has misapprehended the state of the record; he has also vitally mistaken its general tenor, as shown by the abstract of it on his pp. 3 to 7, and by subsequent references in the argument. The evidence, fully read, is found not "incomplete and unsatisfactory," but full, clear and convincing.

To demonstrate this we append an analysis of the testimony on every material point.

1. The articles in suit were, prior to 1890 (and are now) definitely, generally and uniformly regarded by dealers in them as imitations of precious stones. This is fully affirmed by 7 witnesses, and partially denied by 3.*

2. The articles in suit actually imitate precious stones, and this fact gives them their use and their mercantile value. Affirmed by 8 witnesses; denied by none.†

3. Those who regard them as imitations of precious stones include not only dealers in *them*, but dealers in real precious stones (*Vide* Lamont, pp. 19–20, and Starke, p. 22, record. No conflicting testimony as to this).

4. All the stones imitated are commercially classed

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* Affirmed: Kahn, folio 10; Foeppel, ff. 17–18; Heumann, f. 22; Lamont, ff. 26–28; Starke, f. 32; Veith, ff. 35–36–39; Schloss, f. 43.

Denied: Schmalhausen, f. 40, as to Exhibit 4 only; Hertz, f. 44, as to Exhibit 4 only; Wilcox, f. 45, as to Exhibit 3 only.

† Affirmed: Kahn, ff. 9–10; Baldwin, ff. 12–14, Foeppel, f. 17; Heumann, ff. 20–22; Starke, f. 31; Veith, ff. 33–34; Schmalhausen, f. 41; Schloss, f. 43.

as precious stones. This is affirmed by the two dealers in precious stones, Lamont, pp. 18–19, and Starke, pp. 21–22, and is denied by no one.

5. Beads of precious stones are a common form of such stones, and are not commercially excluded from, but always included among, the class known under that name. This is affirmed by two competent witnesses (see record, pp. 16–19, ff. 23–27, & p. 21, f. 30) and denied by no one. Our opponent's comment (p. 17) on the "ordinary condition of unset stones" ignores this unanimous testimony, and is without force.

6. The articles are all composed of glass or paste, and are within one inch in dimensions. We have already dwelt on the proof as to components of the pearls, and may add that all the exhibits were assessed by the collector as manufactures of glass. Further proof as to that was therefore uncalled for and was not taken. The exhibits show their own size.

7. All the articles are "not set." The testimony that they are such as may become set, has already been cited, and is unchallenged.

8. The articles are all beads, strung, and, like all imitations of precious stones, are more often termed "jewels" in the trade than by the longer equivalent name. These being facts asserted in the opposing brief, citations of the testimony are superfluous.

Thus the proofs show, either by unanimous or by greatly preponderant testimony, that we are concerned with glass or paste articles known and recognized in trade as imitation precious stones or as jewels, actually imitating various members of the class of precious stones, in one of their ordinary shapes and conditions, not exceeding one inch in dimensions, and not set but such as are to be set. And this evidence was brought out from the witnesses called by the Government as

well as from those of the importers. Only one witness who had dealt in any of these articles (Schmalhausen) sought to discriminate them from imitation precious stones as known in trade, and his view (record, pp. 27–29) is so untenable that we strongly invite the attention of this court to it.

ARGUMENT.

On these amply proven facts, there can be little occasion for argument to demonstrate the correctness of the decisions under review. Our opponent shows an inclination to turn from the record and argue the cases in the abstract, or upon alleged evidence not here, but *said to be* in the possession of the general appraisers. This court has expressed its determination not to decide one case upon evidence taken in another.

> Seeberger vs. Schlesinger, 152 U. S. 581–585,

and we do not think it will have any greater inclination to follow such as our opponent refers to. But with his abstract argument as to the meaning of the term "precious stones" as employed in the tariff act, we must join issue, and, premising that we do not concede its relevancy to these cases, since (1) the record shows without dispute that all the stones whose imitations are herein concerned are commercially accepted as precious stones, and (2) the question is not whether the articles in controversy imitate any actual or commercial precious stones, but whether they themselves are things which are accepted commercially as "imitations of precious stones",—we say that the term "precious stones" includes every substance imitated by the articles in suit, according to the received import of words in common parlance, according to well settled commercial understanding, according to numerous decisions of the federal courts, according to a long

course of construction by department and appraising officials, and according to a conclusive definition by repeated legislative enactment.

"Precious Stones" in Common Parlance.

Our opponent has found in Revelations a discrimination between "pearls" and "precious stones," and another in "Pilgrim's Progress," and on the authority of these and one modern dictionary he contends that nothing but diamonds, emeralds, rubies and sapphires are precious stones. The same chapter of Revelations which he cites, makes an equally clear discrimination between "beasts, and sheep, and horses," and chapter XX describes "pure gold, as it were of transparent glass". "Pilgrim's Progress," in the part cited, refers to pearls as "worth digging for."

The commonest meaning of "precious stones" clearly involves a comparison with stones in general, and the discrimination of those relatively rare, beautiful and costly. All such stones as are employed in minute pieces for personal ornament are in this sense precious stones. This agrees closely with the primary definitions of the dictionaries. Thus:

Century. "A stone distinguished for its beauty and rarity, and prized for use in ornamentation, especially in jewelry; a gem; a jewel".

Standard. *Precious:* "Specifically said of gems" (No definition of "precious stone")

Jewel: "A precious stone fashioned for use or beauty; a gem"

Gem: "A precious stone; a jewel".

Webster. *Precious:* "Of great price; costly; as, a precious stone"

Precious stones: "Jewels."

Worcester. *Precious:* "Of great price; costly."

Gem: "A precious stone used for ornamental purposes; a jewel."

Jewel: "A precious stone; a gem."

It is to be noted that by all these authorities the terms "precious stone," "gem" and "jewel" are interchangeably used.

There is want of unanimity among the authorities in their enumeration of the several precious stones. Of those cited in the opposing brief "Pilgrim's Progress" implies the exclusion of the pearl. The Century dictionary admits the pearl by a sort of common usage. Revelations, the oldest of all, enumerates (Chapter XXI) a long list, including sapphire, jasper, chalcedony, sardonyx, topaz, beryl, amethyst etc., all of which our opponent would exclude. Dr. Johnson, in his English dictionary, discusses the scientific nature of *pearls*,—"though esteemed of the number of gems by our jewelers." A careful study of the modern authorities, more acceptable on such a question than the scriptures or 17th century literature, shows that the following are, by some or all the writers, classified under the interchangeable terms: "precious stones", "gems" or "jewels", viz: Agate, Aquamarine, Beryl, Bloodstone, Catseye, Chrysoberyl, Garnet, Moonstone, Opal, Pearl, Sardonyx, Tiger-eye, Topaz, Tourmaline, Turquoise, as also are doubtless others not looked for. Meanwhile there is scarcely one as to which all the authorities are agreed. And as the broad scope of the term best effects the reasonable meaning, there seems no doubt it should prevail. As to occult scientific objections, such as that the pearl is not truly a stone, but a limy accretion, they are not relevant, for this court has determined that customs officers are not to be concerned with occult scientific facts or tests, differing from popular ones.

Lutz vs. Magone, 153 U. S. 105.

"Precious Stones" Commercially.

We have shown *(supra)* that by the undisputed testimony of two competent witnesses, all the articles imitated by those in controversy are accepted members of the class of precious stones as known in trade. Our opponent suggests (brief, pp 9-foot-10) that three Government witnesses "substantially denied all these statements," but this is an absolute mistake. Certain witnesses (record, pp. 30-32) who knew nothing about precious stones, stated the names by which they knew the "wax pearls" and "imitation jewels," but this does not touch or approach the point under discussion, nor has the record anything nearer. The allusions of our opponent to some recent decisions of the general appraisers, and to evidence alleged to have been taken by them, might safely be ignored, but we wish to point out that these decisions have all been made by one member of the board, who has been in opposition to the decisions of the courts on this issue for several years, as well as to the views of his colleagues, as is hereinafter pointed out.

There is nothing in the record to oppose the testimony on behalf of the importers as to what are precious stones commercially, and the undisputed evidence of two witnesses establishes the fact as fully as could a hundred.

Robinson vs. U. S., 13 Wall. 363.

"Precious Stones" under the Decisions of the Federal Courts.

The case of *Hahn vs. Erhardt, 46 Fed. Rep. 519*, was tried in the U. S. Circuit Court in the Southern district of New York in 1891. It involved pieces of agate and tigereye stone, shaped into handles for penholders, glove hooks, etc., for which entry was claimed at the

rate provided for precious stones in the law of 1883. A verdict was directed for the plaintiff, the circuit judge saying:

> "These articles would, in ordinary speech, it seems to me, be clearly included within the broad meaning of the term 'precious stones.' What testimony there is here as to how the trade regards them also shows that in trade and commerce in this country they are considered 'precious stones.'" [And, after reviewing the statutes]: "the phrase 'precious stones of all kinds', when used in this act of 1883, is broad enough to cover stones which may sometimes be called 'semi-precious stones', and which are of the class which, in the broad use of the term 'precious stones' is by the community at large regarded as comprised in that family."

In *Erhardt vs. Hahn*, 55 *Fed. Rep.* 273, the circuit court of appeals reversed the above decision (in 1893), solely on the ground that such things as penholder handles made from precious stones, were not describable as stones, precious or otherwise. The court said (p. 275):

> "Undoubtedly agate stones and tiger eye stones are 'precious stones' within the common acceptation of the term; certainly some varieties of them are; and of course they were known in trade and commerce, as to the lexicographers, by that generic term."

The court then pointed the distinction between mere stones, either crude or cut, polished, etc., and useful articles made therefrom.

In 1895, the same court decided the case of *U. S. vs. Popper*, 26 *U. S. Appeals* 509, which involved glass imitations of precious stones imported under the act of

1883. The provision of that law for such articles was less clear than in later laws, being for "compositions of glass or paste, when not set," but the court held that it was equivalent to the clause invoked in the present cases. The transcript shows that the articles in suit were colored glass disks of various sizes, imitating opals, crystals, diamonds, amaranths, aquamarines, rubies and topaz, were used for ornamenting stoves, lanterns etc., and were known in trade as "jewels." These the court ruled were within the enumeration of the clause cited by the importer, and were more aptly and specifically provided for there than in that for "articles of glass, cut, colored" etc. in the same law, under which duty had been assessed.

In this Popper case the appellate court had before it the ruling of General Appraiser Tichenor, from which appeal was taken, and who is the member of the board whose recent rulings are dwelt on and commended in the opposing brief. At that early day, in the first year of the board's existence, we find him asserting (see G. A. 601, on whose authority Popper's protests were overruled by the board) that the provision for compositions of glass or paste, not set, was to be applied only to articles "of smaller size, and of better quality and finish generally." This view was therefore negatived in the Popper decision.

Until the present cases, the courts rendered no further reported decisions involving a conclusion as to what were precious stones.

"Precious Stones" under Executive Construction and Practice.

For a quarter century, from 1875 to the present day, the treasury department and the general appraisers have so ruled as to establish the broadest meaning for the tariff term "precious stones." But while these

rulings have been rendered by various assistant secretaries and various members of the board of appraisers, Mr. Tichenor, in each capacity, has persistently adhered to the view which the courts have so often overruled. Thus we cite:

S. 2153 (1875) Stones of Bohemian glass, cut and colored, recognized as imitations of precious stones, although held elsewhere dutiable.

S. 5258 (1882) Glass stones of *pure black color* described as "like precious stones." Being black, they could not have been like any of the four stones which our opponent thinks are alone precious.

S. 8608 (1888) Garnets held to be precious stones.

S. 9077 and 9152 (1888) were to like effect.

None of these decisions, however, were by Mr. Tichenor, but he ruled, in 1889, while assistant secretary (S. 9523), that if colored glass imitations were covered by the provision for compositions not set, they were also covered by that for articles of glass, colored, cut, etc., and hence dutiable at the higher rate there provided;—a view which was squarely overruled as bad law in the Popper case.

In 1890 the general appraisers succeeded to the department's function of ruling on protests, subject to review in the courts. Mr Tichenor came from the treasury to the board, and the record shows that he has adhered to his former view on this issue, in opposition to his colleagues and undeterred by the repeated decisions of the courts. Thus, in decisions 13347, 13350, 13377, 14218, 14390, 15849, 15975 etc, general appraisers Sharpe, Wilkinson, Sharretts and others have consistently ruled that pearls, opals, garnets, crystals, agates and aquamarines were precious stones, whether in bead form or other usual forms. Usually the treasury accepted these decisions without appeal; in the one or two cases where to our knowledge appeal was taken, the decisions were confirmed without opinion. It is regarded as settled law.

Meanwhile, in decisions 11242, 12654, 19449, 19458 and many others, Mr. Tichenor has maintained his adverse view, opposing all his colleagues and seemingly ignoring the decisions of the courts.

The executive decisions cited in the opposing brief, other than such as we have already referred to, prove irrelevant on examination, except the group of recent decisions under the new law. The others are mostly concerned with protests in which no claim was made for entry under paragraph 454. Several of them overruled the claim that "wax pearls" were dutiable as manufactures of wax, because analysis showed them to contain no wax (See G. A. 568, 644, 936, 2961). Others sustained a claim that beads, unstrung, imitating precious stones, were dutiable as loose beads,—a conclusion not at all in conflict with the decisions now under review (See G. A. 386,—and see treasury decision No. 9214). Others again, sustained duties as assessed, no ground of dissatisfaction being set up in the protests (See G. A. 974). Many of these decisions must have been hastily read and misconceived by our opponent.

As to the group of recent decisions (G. A. 4164, 4166, 4175, 4186, 4418) to which the opposing brief devotes much attention (pp. 13–14), it is enough to say that they do involve any case here for review, nor any law now under discussion; that the alleged evidence on which they were based is also not here; that if it were here it would be found to consist in large part of testimony from an examiner in the local appraiser's office and of evidence taken *ex parte*, without notice to or knowledge of the protesting importers' counsel; and that all these decisions and the proceedings underlying them, were by the member of the board who, as already pointed out, has stood at variance with all his colleagues on this issue, and is seemingly bent on maintaining a conception of the law and facts, completely and repeatedly discredited by the course of decisions.

"Precious Stones" as Defined by Legislative Enactment.

This court has repeatedly held that where Congress, in earlier enactments, has used terms with a clearly established significance, the same term used in a later act is to have the same meaning.

Robertson vs. Rosenthal, 132 U. S. 460.

"When, in a later act, Congress uses expressions that had a recognized meaning in a former act relating to the same subject, they intend to use them in the same sense in which they were first used, that is, with their recognized meaning."

Greenleaf vs. Goodrich, 11 Otto, 278.

And see:

Hollender vs. Magone, 149 U. S., 586.
Seeberger vs. Castro, 153 U. S., 32.

Congress has not once, but repeatedly, provided for "precious stones," in acts prior to the one in issue, in terms which prove that pearls, topaz, aquamarines and the other varieties with which we are concerned, were to be classed as such. We refer to:

Act of 1846 (9 Stats. 42) Schedule G, "Diamonds, gems, pearls, rubies, and other precious stones."

Act of March 2, 1861 (12 Stats. 178) Section 21. "Diamonds, cameos, mosaics, gems, pearls, rubies and other precious stones"

Act of June 30, 1864 (13 Stats. 202) Section 3. Provision worded precisely as the last

U. S. Revised Statutes, Sec. 2504. Provision worded precisely as the last.

(Note that cameos are most commonly of onyx and agate.)

In 1883 the provision was shortened (22 Stats. 488) to "precious stones of all kinds," and this language was repeated in the act of 1890 (26 Stats. 567).

In the case of Hahn vs. Erhardt, 46 Fed. Rep. *(supra)* the circuit judge ruled:

> "For the elaborate and somewhat involved phraseology which congress has from time to time used in the past when laying duty on this class of articles, there has been substituted the comprehensive phrase 'precious stones of all kinds.'"

Our opponent contends (pp. 14–15) that in the acts of 1894 and 1897, pearls have been "distinguished from precious stones." Were this so, we cannot see how the fact could bear on cases involving earlier acts in which pearls were beyond dispute included among precious stones. But examination of the later acts does not even leave this poor comfort for the petitioner. In both acts pearls and all other precious stones are grouped under a heading: "Jewelry and Precious Stones." Pearls are merely set off from the other stones because the references to cleaving, cutting, etc., would as to pearls be meaningless. Thus in paragraph 338, Act of 1894, the provision for the set or mounted precious stones is: "Precious stones, * * * if set, * * * including pearls set."

And while real pearls are thus *in part* separately mentioned from other real precious stones, no discrimination has come to be made between one and another of the imitation precious stones. They are still provided for in a single group.

Were the articles in suit not literally imitations of precious stones, their dutiable character would still be that of paragraph 454.

Thus, if the proofs showed that the stones imitated were Mexican onyx, marble and granite, or that while bearing the names of sundry precious stones the arti-

cles did not in fact imitate them and were not intended to imitate them, still, if with these facts the record also showed by adequate proof that in trade these articles were generally recognized as "imitations of precious stones," such would be their tariff character. The proposition is of course academic, for the record shows that the articles not only are, but logically must be, known to trade as such imitations, because they are such in fact. But it must be remembered that these cases concern, not the tariff provision for precious stones, but that for "imitations of precious stones," and the doctrine is, we think, fully settled, that if the trade meaning of tariff terms *has* peculiarities whereby it differs from their common meaning, such peculiar meaning must be adopted in applying the tariff laws.

Hedden vs. Richard, 149 U. S. 346.
Cadwalader vs. Zeh, 151 U. S. 171.
Sonn vs. Magone, 159 U. S. 417.

The foregoing argument equally well applies to our opponent's contention that a bead of precious stone is not a precious stone.

As on the other point, the undisputed testimony shows the contrary, as in fact we think our common knowledge shows it.

But were it not so, there is still no ground for asserting that the commercial or common limitation of precious stones equally applies to their imitations, and the proofs directly on the point in these cases show that these beads are commercially and in fact imitations of precious stones, *holes and all.*

It may be added that the repeated provisions of recent acts, for "pearls strung," among the precious stones, since pearls strung can be nothing else than *pearl beads*, flatly refutes the assertion that Congress does not regard beads as one of the forms of precious stones.

On the articles in controversy, there is neither conflict nor repugnancy between paragraphs 454, 445 and 108.

That last named is a mere residuary clause, so far as applicable to these articles at all, for manufactures of glass not specifically named in the act. As between 454 and 445, the only conflict would be as to those beads which imitate precious stones and were also imported loose, and as both provisions carry the same rate, such conflict would have no importance. Paragraph 445 would take all loose beads not imitating precious stones,—by far the majority of all,—454 would take all imitation stones not in bead form, or in bead form but not loose, and both paragraphs would equally well cover the remainder of precious stone bead imitations, while strung beads not imitating precious stones must go to paragraph 108.

This was perceived and held by the general appraisers in G. A. 1727, wherein, deciding that strung glass beads imitating turquoises were dutiable under No. 454, they added:

> "Had they been imported unthreaded and unstrung, the Board would feel inclined to hold they could with equal correctness be returned for duty at 10 per cent *ad valorem*, under paragraph 445 or 454, N. T."

Nor is the fact that unstrung beads have been designated in 445, any implication against strung ones being dutiable at the same rate under 454 *when they are such as imitate precious stones.* A vast variety of strung beads would still remain excluded from the low duty. Imitation precious stones in bead form are very different things from *mere* beads. For the latter, Congress provided the low rate only when loose. For the former, the

rate is available whether they are loose or strung. In the case of

U. S. vs. Bennett, 26 U. S. Appeals, 535,

it was held that a provision in the free list for "goatskins without the wool" raised no implication against the free entry, under a provision for "fur skins," of certain goatskins with the wool, *which were shown to be fur skins by trade recognition.* The Court ruled that their tariff character was to be measured by ascertaining whether the fur paragraph aptly described them, not by argumentative inferences from another paragraph which excluded them.

As to Quality.

The suggestion has been made by one of the general appraisers that imitations of precious stones, to be dutiable as such, must not only have all the attributes specified in paragraph 454, but must be excellent and not inferior imitations.

This is clearly repugnant to the doctrine that when the law has prescribed its own limitations, it is not for those charged with its enforcement to add others.

U. S. vs Goldenberg, 168 U. S. 394.

But aside from this, the suggestion is comically unreasonable, when directed to the act of 1890, because of the words in paragraph 454: "not exceeding one inch in dimensions". It is in evidence in these cases, and is common knowledge, that only the commonest and cheapest imitations run up to anything like an inch in size; hence the presence of that limit shows that fine articles were no more in the intent of Congress than within its words. In paragraph 120 of the same law a duty line is distinctly drawn by a cost limit; it could have been as easily done in No 454 had Congress desired to make any distinction between fine and poor

articles. *The distinction was not intended to be ther*
and it is not there. Its existence in the mind of a ge
eral appraiser is entitled to no weight in the courts.

The decisions of the circuit court of appeals we
correct, and they should be affirmed.

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